S.B. CIVIL WRIT PETITION NO. 306/1996

Ram Lal Vs. Board of Revenue & Ors.

DATE OF ORDER : 10.07.2007

HON'BLE MR. GOVIND MATHUR, J.

Mr. Sudhir Sharma, for the petitioner.
Mr. S.N. Tiwari, Dy. Govt. Advocate.

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By this petition for writ a challenge is given to validity, propriety and correctness of the judgment dated 30.8.1994 passed by the Board of Revenue, Rajasthan, Ajmer in Reference No.112/94/TA/Bikaner.

In brief the facts of the case are that the petitioner preferred a suit under Section 88 of the Rajasthan Tenancy Act, 1955 claiming to be recorded as Gair-khatedar tenant as the suit land was said to be in his cultivatory possession prior to Samvat 2012. The Assistant Commissioner (Colonization) by the judgment dated 14.12.1988 decreed the suit and ordered to record the petitioner as Gair Khatedar tenant in revenue records for the suit land measuring 15 bighas. The Dy. Commissioner (Colonization) under an order dated 16.12.1994 after reaching at the conclusion that the decree dated 14.12.1988 was contrary to the facts made a reference under Section 232 of the Rajasthan Tenancy Act, 1955 to the Board of Revenue. The Board of Revenue by the judgment impugned dated 30.8.1994 accepted the reference and set aside the judgment and decree passed by the Assistant Commissioner. Hence, this petition for writ.

The contention of the petitioner is that (i) the order impugned is bad in eye of law as the reference under Section 232 of the Act of 1955 was made by the Dy. Commissioner (Colonization), Bikaner without

having any authority of law, and (ii)the Board of Revenue failed to appreciate that the power to make reference was exercised at belated stage.

Heard counsel for the parties.

I do not find any force in the first contention as the powers of the Collector were delegated to the Dy. Commissioner (Colonization) by the Government of Rajasthan under its notification dated 17.10.1978. The notification referred above is available on record as Annexure-R/3. I also do not find any force in the next contention that is with regard to delay in making a reference. The suit preferred by the petitioner was decreed by the Assistant Commissioner (Colonization) on 14.12.1988. The proceedings to make reference were initiated on 4.6.1991. The delay of about two years can not be said to be inordinate, thus, the same is not fatal.

No other ground is pressed in service by learned counsel for the petitioner. Hence, this petition is dismissed.

(GOVIND MATHUR),J.

J.goyal